

**District of Columbia Court of Appeals**

500 Indiana Ave., N.W., 6<sup>th</sup> Floor

Washington, DC 20001

(202) 879-2700

*Representing Yourself in an Agency Appeal.*

## INTRODUCTION

This guide is only for people who don't have a lawyer and are representing themselves in appeals from decisions that were made by a D.C. Administrative Agency, you should not use this guide if your case is a civil case, a criminal case, or a Small Claims case.

An appeal is hard work, it can take a lot of time, and it can be very complicated. For those reasons, it's important to pay attention to the Court's Rules. The Rules control the whole appeal process and if you don't follow them you can ruin your own appeal. Don't expect special treatment just because you're representing yourself, *everyone* has to follow the Rules. This guide can't give you legal advice, but it will help you learn what to do to get your case in front of the Court. The Court of Appeals staff will also help you as much as they can, but they can't give you legal advice either.

At the end of this guide there is a list of the offices where you will file things or can get information. There is also a list of what different legal terms mean and copies of all the forms mentioned in this guide.

**REMEMBER, THE COURT'S RULES CONTROL AND YOU SHOULD ALWAYS FOLLOW THEM, NO MATTER WHAT THIS GUIDE SAYS.**

## THE BASIC STEPS

### Step 1. How to File an Appeal.

- A. When to Appeal?** Most of the time you have to file an appeal within 30 days after you have been notified of the agency's final decision. But some agencies let you have more time, and some give you less time, so be careful.
1. Sometimes one of the other parties, like the agency or your employer, is the one filing the appeal, and if that happens then you can only participate if you intervene. The time frame is the same, you have 30 days from the date the petition is filed to submit your Notice of Intention to Intervene.
- B. What to File?** One original and 6 copies of a Petition for Review are what you file. The Clerk's office at the Court of Appeals has a blank form, like Form 5 at the end of this guide, that you can use. You don't have to use this form, but if you don't, then be sure that your Petition has the names of all the people who are bringing the appeal and that it says which order or decision that you're appealing. You should also attach a copy of the order you want the Court to review.
1. If your case is one of those where you have to intervene, then you file a Notice of Intention to Intervene and that makes you a party to the appeal.
- C. Where to Appeal.** You file your Petition or Notice of Intention to Intervene in the Clerk's office at the Court of Appeals. The Clerk will send a copy of your Petition to the agency and to the D.C. Attorney General, but you must send a copy to any other party who was involved in the agency proceeding and then give the Clerk a list of the parties you served with a copy.
- D. How Much?** It costs \$100 to file the Petition for Review, but it doesn't cost anything to intervene. If you can't afford this, you can file a Motion to Proceed on Appeal *In Forma Pauperis* in the Clerk's office.
1. You have to file this motion at the same time you file your Petition for Review and it is very important that file both of them with a Financial Information Form.

- a. Form 7a is a sample Motion to Proceed on Appeal *In Forma Pauperis*.
- b. Form 7b is a sample Financial Information Form.

## **Step 2. The Record.**

- A. The record is made up of all of the papers and exhibits that were filed in the agency, and any orders or decisions that the agency issued (including the order you're appealing). It might also have a transcript if one was made. A transcript is a word-for-word copy of everything that was said at a hearing, but transcripts are not always made in agency cases.
- B. The record is what the Court of Appeals looks at to see what happened in the agency case, and you will need to use it when you write your brief.
- C. The agency has to send the record to the Court of Appeals within 60 days after it gets the Petition for Review. You may look at it in the Clerk's office.

## **Step 3. Briefs.**

- D. After the record is complete, the Court of Appeals will issue an order telling you when to file your brief. You file one original and 3 copies with the Clerk's office at the Court of Appeals. You also have to send a copy to the agency and to any intervenors.
- E. Your brief can't be more than 50 pages long.
- F. After you file your brief, the respondent gets 30 days to file a brief and you can file a reply brief, if you want, within 21 more days.

## **Step 4. Argument.**

- A. Once the briefs are all filed, the Court of Appeals will let you know if it wants to hear you make an argument in person. If it does, it will put your case on the Regular Calendar and tell you when the argument is scheduled. If the Court of Appeals does not want to hear an argument, it will put your case on the Summary Calendar.
- B. If your case is on the Summary Calendar and you want to make an oral

argument, you have to file a motion in the Court of Appeals asking for permission to argue. You have to file that motion within 10 days after you receive notice that your case is on the Summary Calendar.

#### **Step 5. Decisions.**

- A. After the Court of Appeals reads everything and hears any argument, it will issue an opinion or order which decides if you win or lose. If you lose and you think the Court of Appeals made a mistake, you have three choices:
  - 1. You can file a petition for rehearing at the Court of Appeals within 14 days after the Court makes its decision. The petition goes back to the same judges who heard your case and it explains to them why you think they were wrong. This petition can't be longer than 10 pages.
  - 2. You can file a petition for rehearing en banc at the Court of Appeals within 14 days after the Court makes its decision. This petition goes to *all* of the judges on the Court and asks them to hear your case all over again from the beginning. There's a 10 page limit for this petition too.
    - A. You can file both a petition for rehearing and a petition for rehearing en banc, but you have to file them together you can't wait to see if one type of petition is denied and then decide you're going to file the other type. Also, the combined petition still can't be more than 10 pages total.
  - 3. You can file a petition for writ of *certiorari* at the United States Supreme Court within 90 days after the Court of Appeals makes its decision. This petition asks the Supreme Court to review the Court of Appeals' decision. If you file this petition, the Court of Appeals' Rules don't apply anymore and you must follow the Rules of the U.S. Supreme Court.

## IMPORTANT TIPS

1. Most of the time, you can't file a Petition for someone else like your spouse or a friend.
2. You might not be able to appeal the agency decision right away. If the agency has its own inside appeal process – and lots of them do – then you have to go through all of them before you can come to the Court of Appeals.
3. If you file a Petition don't think that means the person you've been ordered to pay can't start trying to collect or that you don't have to obey any other part of the agency's order. To stop the person from trying to collect or to protect yourself from having to do something you don't think you should have been ordered to do in the first place, you need to file a Motion for Stay Pending Appeal.
4. You have to sign everything you file with the Court and put your address and phone number on it. You also have to keep the Court up to date on your address and phone number, let it know if you move or they change.
5. You have to send a copy of anything you file to the respondents. You can do this by mail, by a private delivery service, by bringing it to them personally, or by faxing it to them if you both agree that faxing is ok. You cannot fax anything to the Court of Appeals. You also have to attach a certificate of service to the filing.

## **FORMS**

You can get free copies of any forms listed in this guide at the office of the Clerk of the Court of Appeals in the Moultrie Courthouse at 500 Indiana Avenue, NW, Washington, DC 20001. The office is on the Sixth Floor, Room 6000, and the phone number is (202) 879-2700.

## GLOSSARY

Here is what some of the legal terms in this guide mean.

Brief - Your brief is a legal argument telling the Court why the agency's decision was wrong.

Certificate of Service – this tells the Court how you served the other side and when you did it.

Contested case – this is the only type of case where you can appeal to the Court of Appeals. It means it's a case which was like a trial, where an administrative judge heard testimony and looked at evidence.

Dismiss or dismissed – means your case has been kicked out of court.

Exhaustion of remedies – this means that you have gone through all of the agency's own appeal processes before you filed your Petition for Review.

Final order – is a decision which resolves the whole case against all of the parties in the agency case.

Intervenor – is somebody who was a party in the agency case but isn't the one who filed the Petition for Review.

Judgment – is a final order that tells one person to pay another person some money or to do something specific.

Motion – this is what you file when you want to ask the court to do something.

Opinion – this is a written explanation from the Court that says why you won or lost your appeal.

Opposition or response – is the filing that is made in response to a motion.

Party – anybody who participated in the case in the agency case.

Petitioner – is the party who filed the Petition for Review.

Record – is everything in the agency case file and any transcripts that are prepared.

Regular Calendar – a list of cases that the Court of Appeals wants to hear oral argument on.

Reply brief – is a brief that an appellant can file in response to the appellee's brief.

Service – this means you have made sure your opponent has been sent or given a copy of anything you file in the court.

Summary Calendar – is a list of the cases that the Court of Appeals will not hear oral argument on.